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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,659	09/12/2003	Robert C. Hochtritt	1517-1032	7581

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YOUNG & THOMPSON  
745 SOUTH 23RD STREET  
2ND FLOOR  
ARLINGTON, VA 22202

EXAMINER
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SHARMA, RASHMI K

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/660,659		HOCHTRITT ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Rashmi K. Sharma		3651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: it appears that claim 1 line 6 should recite "...a majority..." and claim 1 line 7 should recited "...a length...". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

Claims 8, 10a and 11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites that the angle formed by the first section is in the range of 45-85 degrees. However, if the angle in this range is equal to 45 degrees, then the angle is not "more nearly vertical", as recited in claim 1, because at 45 degrees the first section would be exactly between a vertical and horizontal position.

With regard to claims 10 and 11, the angle formed by the second section is in a range of 15-60 degrees or in claim 11 is about 45 degrees. Once again, if the angle is equal to 45 degrees, then as recited in claim 1, the angle is not "more nearly at a horizontal", because at 45 degrees the angle would be between a vertical and a horizontal position. Also if the angle is more than 45 degrees, as recited in claim 10, then the angle of the second section would be more nearly vertical than a horizontal position, as recited in claim 1. Clarification is required and no new matter is permitted.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petterson et al. (US Patent number 5,100,020) in view of Swift (US Patent number 1,151,064).

Petterson et al. discloses a dispenser for holding and dispensing a stack of sheet products comprising a body (20) and a stand (48), the stand comprising a base (50) for supporting the dispenser on a horizontal surface, the body (20) comprises a first upstream section (portion above the sheet products in Figure 3) extending over a majority of a length of the body and a second downstream section (portion including the sheet products) ending in a dispensing opening (36), wherein the first section forms an angle that is more nearly vertical and the second section forms an angle that is more nearly horizontal, wherein the stand (48) comprises (resilient material) attachment structures (54) for fixing the dispenser to the horizontal surface and an openable cover (40).

Petterson et al. fails to disclose the body portion having the second section extending at an angle relative to the first upstream section, the first upstream section

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being straight, wherein the first and second sections form an oblique angle relative to the horizontal surface and wall mounts.

Swift does disclose a body portion having the second section (5) extending at an angle relative to the first upstream section (3), the first upstream section being straight (see Figure 2) and wall mounts (2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Petterson's body to incorporate one section being angled relative to the other as taught by Swift in order to provide for a more user friendly way for one to reach the opening of the dispenser. It also would have been obvious to vary the angle between the first and second sections in order to provide for a larger range of position orientations as desired, depending on the user's needs.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petterson et al. (US Patent number 5,100,020) in view of Swift (US Patent number 1,151,064) and further in view of Sigl et al. (US Patent number 4,638,921).

Petterson et al. as disclosed above, fails to show interfolded paper napkins.

Sigl et al. does disclose interfolded paper napkins.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace Petterson's sheet products with that of Sigl's interfolded paper napkins in order to provide for easier dispensing of the sheets or as a matter of user preference.

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Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petterson et al. (US Patent number 5,100,020) in view of Swift (US Patent number 1,151,064) and further in view of Spencer (US Patent number 6,830,151).

Petterson et al. as disclosed above, fails to show wall mounting structure comprising at least two openings formed in a rear wall of the body for receiving bolts.

Spencer does disclose wall mounting structure comprising at least two openings formed in a rear wall of the body for receiving bolts.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wall mounting structure of Petterson as modified by Swift to be within the confines of the rear wall, in order to provide for a variety of ways for mounting the body to a wall structure.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petterson et al. (US Patent number 5,100,020) in view of Swift (US Patent number 1,151,064) and further in view of Margulies (US Patent number 4,526,291).

Petterson et al. as disclosed above, fails to show flanges cooperating with the cover.

Margulies does disclose flanges (46) cooperating with a cover (4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the flanges as taught by Margulies to that of Petterson's invention in order to provide a more coherent seal between the body and the cover.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petterson et al. (US Patent number 5,100,020) in view of Swift (US Patent number 1,151,064) and further in view of Boone et al. (US Patent number 6,892,898).

Petterson et al. as disclosed above, fails to show a cover being either opaque or transparent.

Boone et al. does disclose a cover being either transparent (316) or opaque (read column 13 lines 52-55).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Petterson's cover to be either opaque or transparent as taught by Boone, in order for more easily viewing the interior of the dispenser and as a matter of design choice.

### ***Response to Arguments***

Applicant's arguments filed 1/30/06 have been fully considered but they are not persuasive.

Applicant's argue that claims 8, 10 and 11 suitably definite, however the Examiner disagrees and the 112 rejection stands. Applicant remarks that the answer to the Examiner's inquiries regarding these claims "...are describing the recited first and second sections of the dispenser body relative to one another", however the orientation of the angle between the first and second sections is not being claimed. Claim 1 clearly recites "...each of the first and second sections forms an oblique angle relative to said horizontal surface". While the two sections may be angled relative to one another, the

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claim language in claims 8, 10 and 11 deem these claims vague and indefinite because in order for the Applicant to meet the claim limitation quoted above, the angles recited in claims 8, 10 and 11 would have to be relative to the horizontal, as depicted in the drawings. The drawing fail to depict the two sections being angled relative to one another at about 45 degrees in any of the drawings.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Swift's angled dispenser body does in fact teach Applicant's invention.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any



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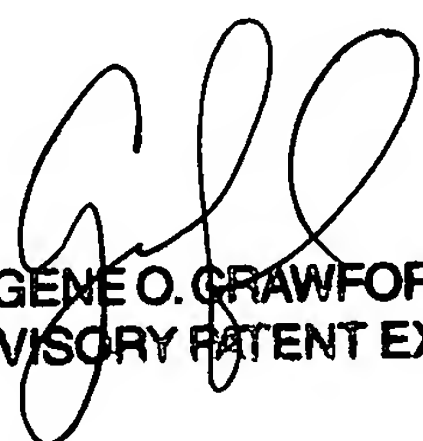
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER